

No. X06-UWY-CV15-6050025-S	:	SUPERIOR COURT
	:	
DONNA L. SOTO, ADMINISTRATRIX OF	:	COMPLEX LITIGATION DOCKET
THE ESTATE OF VICTORIA L. SOTO, ET AL.	:	
	:	AT WATERBURY
v.	:	
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL.	:	JULY 22, 2021

DEFENDANTS' MOTION FOR PROTECTIVE ORDER
REGARDING CORPORATE DESIGNEE DEPOSITION NOTICES

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Pursuant to Connecticut Practice Book § 13-5, Defendants Remington Arms Company, LLC and Remington Outdoor Company, Inc. (collectively, “Remington”) hereby move for a protective order regarding the corporate designee deposition notices served by Plaintiffs on June 30, 2021. Specifically, Remington seeks a protective order (i) permitting Remington to adopt the deposition testimony of John Trull and Melissa Anderson in their individual capacities as its own testimony on topics set forth in the corporate designee deposition notices at depositions to be scheduled on or before August 31, 2021, or alternatively, (ii) granting Remington an extension of time until August 31, 2021 to identify and prepare other witnesses who are willing to testify on behalf of Remington on topics set forth in the corporate designee deposition notices.

BACKGROUND

On April 15, 2020, Plaintiffs served a notice seeking to take the corporate designee deposition of Remington on the following topics:

1. The organizational structure of Remington including: (a) the identity and function of any departments, divisions, or other organizational groups within Remington; and (b) the identities, titles, dates of employment, job descriptions, and reporting relationships of its employees.
2. Without limitation as to date, Remington’s policies and practices concerning: (a) the retention, storage, destruction, or disposal of documents, including email and electronic documents; (b) any litigation holds or notices issued internally or to third-parties to ensure preservation and prevent the deletion, destruction, or disposal of electronic documents or electronic communications potentially relevant to this action; (c) the equipment used; and (d) the position and identity of all persons responsible for carrying out these policies and practices, their period of service in each position, their direct reports and supervisors, and their place within Remington’s organizational structure.
3. Remington’s collection and production of documents in this action, including the details of any inquiry or search for electronic communications, identities of custodian files that were searched, and the process for searching those files.
4. Remington’s employment of vendors or third parties to assist Remington in the retention, storage, destruction, or disposal of documents referenced in Matter 2, above, or the collection and production of documents referenced in Matter 3,

above; and the identities, details of employment, dates of employment, reporting relationships, and costs of those parties.

5. The identity of all individuals (aside from counsel) consulted to prepare for this deposition.

(Exhibit A.) Following service of that notice, Remington had identified John Trull (Senior Vice President) and Melissa Anderson (Director of IT) as then-Remington employees with substantial personal knowledge regarding the subject matters in the notice and was prepared to produce them as corporate designee witnesses.

On July 27, 2020, Remington filed a voluntary bankruptcy petition, and the proceedings in this case were stayed. (Entry No. 317.00.) After the stay of proceedings was lifted, Plaintiffs unilaterally re-noticed corporate designee depositions of Remington without first consulting with Remington's counsel. Specifically, on June 30, 2021, Plaintiffs unilaterally noticed the deposition of Remington for August 4, 2021 on the following topics:

1. The organizational structure of the Remington IT Department, its employees, job titles and reporting relationships, "including any organizational charts";
2. Without limitation as to date, Remington's policies and practices concerning: (a) the retention, storage, destruction, or disposal of documents, including email and electronic documents; (b) any litigation holds or notices issued internally or to third-parties to ensure preservation and prevent the deletion, destruction, or disposal of electronic documents or electronic communications potentially relevant to this action; (c) the equipment used; and (d) the position and identity of all persons responsible for carrying out these policies and practices, their period of service in each position, their direct reports and supervisors, and their place within Remington's organizational structure;
3. Remington's collection and production of documents in this action, including the details of any inquiry or search for electronic communications, identities of custodian files that were searched, and the process for searching those files; and
4. Remington's employment of vendors or third parties to assist Remington in the retention, storage, destruction, or disposal of documents referenced in Matter 2, above, or the collection and production of documents referenced in Matter 3, above; and the identities, details of employment, dates of employment, reporting relationships, and costs of those parties.

(Exhibit B.) On June 30, 2021, Plaintiff also unilaterally noticed the deposition of Remington for August 5, 2021 regarding “[t]he organizational structure of Remington including (a) the identity and function of any departments, divisions, or other organizational groups within Remington; (b) the identities, titles, dates of employment, job descriptions, and reporting relationships of its employees, and (c) any organizational charts.”¹ (Exhibit C.)

On July 6, 2021, the Court held a status conference in this case at which Remington’s counsel advised Plaintiffs’ counsel and the Court that Remington would make efforts to determine whether Mr. Trull and Ms. Anderson—who were no longer employed by Remington—would still be willing to serve as corporate designee witnesses. On July 15, 2021, Remington’s counsel informed Plaintiffs’ counsel that Mr. Trull and Ms. Anderson are no longer willing to serve as corporate designee witnesses. However, they both have agreed to appear voluntarily and to testify in their individual capacities on dates that are convenient to them and counsel concerning the very topics set forth in the deposition notices. Meanwhile, Remington—a bankrupt entity with no employees—has been unable to secure the agreement of any other witnesses to replace Mr. Trull and Ms. Anderson as corporate designees.

Accordingly, Remington’s counsel proposed both during the status conference with the Court on July 19, 2021 and in subsequent correspondence with Plaintiffs’ counsel on July 20,

¹ Plaintiffs improperly noticed Remington’s deposition for Greensboro, North Carolina. As Plaintiffs know, Remington’s corporate headquarters is located in Huntsville, Alabama. See Chapter 11 Voluntary Petition at 1, *In Re Remington Outdoor Co., Inc.*, No. 8:20-BK-81688 (Bankr. N.D. Ala. July 27, 2020), ECF No. 1; Declaration of Ken Darcy ¶ 20, *In Re Remington Outdoor Co., Inc.*, No. 8:20-BK-81688 (Bankr. N.D. Ala. July 27, 2020), ECF No. 6. Accordingly, Remington’s deposition should have been noticed for Huntsville, Alabama. See Conn. Practice Book § 13-29(f) (“If a deponent is an officer, director or managing agent of a corporate party, or other person designated under Section 13-27(h), the place of examination shall be determined as if the residence of the deponent were the residence of the party.”); *id.* § 13-29(c)(2) (stating that deposition of a defendant must take place “within thirty miles of the defendant’s residence or within the county of his or her residence”); *Pfizer, Inc. v. Mine Safety Appliances Co.*, No. HHDx044034705S, 2008 WL 251933, at *1 (Conn. Super. Ct. Jan. 9, 2008) (granting motion for protective order because deposition of corporation was noticed for Connecticut when its corporate headquarters were in Pennsylvania). Absent consent from Remington and the witnesses on location, the two notices unilaterally set by Plaintiffs for depositions on August 4, 2021 and August 5, 2021 in the wrong state are defective for this reason alone.

2021 that Plaintiffs depose Mr. Trull and Ms. Anderson in their individual capacities and that Remington would adopt the testimony given by them as its own on topics set forth in the corporate designee deposition notices. (Exhibit D.) Plaintiffs' counsel inexplicably rejected that proposal—claiming it was “not a remotely reasonable substitute for corporate designee depositions”—despite Remington providing counsel with the case law holding that it was a reasonable substitute. (Exhibit E.) As a result, Remington had no choice but to file the instant motion for a protective order.

LEGAL STANDARD

The Court can issue protective orders regarding discovery “for good cause shown.” Conn. Practice Book § 13-5. “Good cause has been defined as a sound basis or legitimate need to take judicial action.” *Welch v. Welch*, 48 Conn. Supp. 19, 20 (2003) (quotation marks omitted). Connecticut courts frequently look to federal case law to determine whether there is good cause to issue a protective order because the standards are substantially similar. *See Pavlo v. Slattery*, No. CV030083541S, 2004 WL 424263, at *4 (Conn. Super. Ct. Feb. 20, 2004) (“Because Federal Rule of Civil Procedure 26 provides the same authority to federal courts for the issuance of protective orders and for the same reasons, federal case law is appropriate authority for determining protective orders pursuant to Practice Book § 13-5.”); *DDG Properties Co., Inc. v. Konover Const. Corp.*, No. X03CV990501534S, 2000 WL 1513928, at *2 (Conn. Super. Ct. Sept. 19, 2000) (noting that Connecticut courts look to Federal Rule of Procedure 30(b)(6) for guidance in construing Practice Book § 13-27(h) because it contains a “similar provision addressing designee depositions”).

ARGUMENT

I. The Court Should Permit Remington to Adopt the Testimony of Witnesses in Their Individual Capacities As Corporate Designee Testimony.

The Connecticut Practice Book provides that an organization may designate “one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf.” Conn. Practice Book § 13-27(h). Remington is a bankrupt entity that no longer has any officers, directors, managing agents, or employees. Moreover, the former employees who Remington previously identified as potential corporate designees on topics in the notices—Mr. Trull and Ms. Anderson—no longer consent to testify on Remington’s behalf. Both Mr. Trull and Ms. Anderson, however, will be witnesses who will be deposed in their individual capacities and have agreed to appear on mutually convenient dates and locations without the need for subpoenas. Both Mr. Trull (who was a former Senior Vice President at Remington) and Ms. Anderson (who was the former head of IT at Remington) have extensive personal knowledge regarding the topics in the corporate designee deposition notices. Remington therefore has proposed that Plaintiffs depose Mr. Trull and Ms. Anderson in their individual capacities and that Remington would adopt testimony given by them as its own on topics set forth in the notices. The end result is exactly the same as the one that Plaintiffs claim they seek—the witnesses who are most knowledgeable concerning the subjects set forth in Plaintiffs’ deposition notices will testify under oath and Remington has agreed in advance to adopt their testimony—as would be the case if the witnesses had expressly agreed to serve as corporate designees. Plaintiffs’ counsel’s failure to consent to this process after conferring with Defendant’s counsel appears to be nothing more than unproductive gamesmanship in conflict with court decisions that have addressed this very topic in similar situations.

Indeed, Remington’s proposed procedure has been followed by many courts, which have permitted corporations to adopt the deposition testimony of individual fact witnesses as the testimony of the corporation. *See Van Oyen v. MSH Chevrolet Cadillac, Inc.*, No. 4:19-CV-2561, 2021 WL 791241 (E.D. Mo. Mar. 2, 2021) (permitting defendant to adopt “the already-provided testimony of their earlier fact witnesses as corporate testimony”); *Inline Packaging, LLC v. Graphic Packaging Int’l, Inc.*, No. 15-CV-3183, 2018 WL 9919939, at *10–12 & n.8 (D. Minn. Jan. 23, 2018) (stating that there would be no need to cover topics during a Rule 30(b)(6) deposition if the company were to formally adopt testimony from individual discovery depositions on the designated topics); *Bank of Am., N.A. v. New England Quality Serv., Inc.*, No. 5:16-CV-83, 2017 WL 2955760, at *3 (D. Vt. July 10, 2017) (noting that the company may elect to deem the testimony of previously deposed witnesses in their individual capacities as Rule 30(b)(6) testimony); *Hoops v. Med. Reimbursements of Am., Inc.*, No. 4:16-CV-01543, 2017 WL 2242558, at *2 (E.D. Mo. May 23, 2017) (encouraging the parties to confer regarding whether testimony of previously deposed witnesses may be adopted as the testimony of the corporation); *Presse v. Morel*, No. 10-CV-2730, 2011 WL 5129716, at *2 (S.D.N.Y. Oct. 28, 2011) (adopting suggestion that the deposition testimony provided by witnesses in their individual capacities be deemed to constitute the Rule 30(b)(6) testimony of the company); *A.I.A. Holdings, S.A. v. Lehman Bros., Inc.*, No. 97-CV-4978, 2002 WL 1041356, at *3 (S.D.N.Y. May 23, 2002) (noting that “there appears to be no obstacle to the entity’s complying with its obligations under Rule 30(b)(6) by adopting the witness’s testimony in his individual capacity”).

Remington’s proposal is fair and reasonable and will provide Plaintiffs with Remington’s testimony on subjects in the deposition notices. Indeed, the only way Remington can present meaningful corporate designee testimony under the circumstances—where it has no employees and former employees with personal knowledge do not consent to testify as corporate

designees—is for Remington to adopt the testimony of Mr. Trull and Ms. Anderson in their individual capacities. Plaintiffs do not have the right to force Remington to present witnesses who lack any (or very little) knowledge and would require inordinate preparation time with uncertain results. *See McIntyre v. BF Capital Holding, LLC*, No. 3:14-CV-33, 2016 WL 5219445, at *1 (D. Conn. Sept. 20, 2016) (“There is no procedural vehicle for the [noticing party] to choose [the] corporate designee.”); *MPD Accessories, B.V. v. Urban Outfitters, Inc.*, No. 12-CV-6501, 2013 WL 4399199, at *12 (S.D.N.Y. Aug. 13, 2013) (“[T]he defendants do not point to any binding authority permitting the court to compel a corporation deponent to designate a specific person to be its Rule 30(b)(6) witness, and the Court finds none.”). Indeed, if Plaintiffs truly needed the information on the topics in the notices from the witnesses who have the relevant knowledge, then there is no reason why they would not have accepted Remington’s proposal. Accordingly, the Court should enter an order permitting Remington to adopt the testimony of Mr. Trull and Ms. Anderson in their individual capacities as corporate designee testimony.

II. Alternatively, the Court Should Grant Remington An Extension of Time to Identify and Prepare Other Witnesses to Serve As Corporate Designees.

If the Court were not to permit Remington to follow the above procedure, then it should provide Remington with an extension of time until August 31, 2021 to find and attempt to prepare some alternative witness or witnesses to provide testimony on the very topics that would be covered by Mr. Trull and Ms. Anderson. Because Remington is a bankrupt entity with no employees, it would require additional time to find and locate corporate designee witnesses who hopefully would consent to testify on these topics. Moreover, because such witnesses would not have personal knowledge of the topics, Remington unnecessarily would need to spend a substantial amount of time preparing them for the depositions. On their face, the expansive

topics in the notices seek information regarding *every employee* in the *entire company* and the company's policies and practices regarding document retention, collection, and production *without limitation as to time*.² Given the breadth of the topics in the notices and the need to educate witnesses who lack any personal knowledge regarding those topics, the requested extension of time to identify and prepare appropriate corporate designee witnesses is plainly reasonable. *See F.D.I.C. v. Wachovia Ins. Services, Inc.*, No. 3:05-CV-929, 2007 WL 2460685, at *3 (D. Conn. Aug. 27, 2007) (granting motion for protective order regarding Rule 30(b)(6) deposition notice and noting that receiver's "lack of pre-failure involvement with [bankrupt company] does bear upon the reasonableness of the scope of the discovery that has been requested"). Indeed, the failure to grant relief under the circumstances here would constitute an abuse of discretion.

CONCLUSION

For the reasons set forth above, the Court should grant Remington's motion for protective order (i) permitting Remington to adopt the deposition testimony of John Trull and Melissa Anderson in their individual capacities as its own testimony on topics set forth in the corporate designee deposition notices at depositions to be scheduled on or before August 31, 2021, or alternatively, (ii) granting Remington an extension of time until August 31, 2021 to identify and prepare other witnesses who are willing to testify on behalf on Remington on topics set forth in the corporate designee deposition notices.

² Prior to Remington's bankruptcy, Plaintiffs had deposed five current or former Remington employees on merits topics. However, the topics in Plaintiffs' corporate designee deposition notices do not address the merits of the limited remaining CUTPA claim that Remington's pre-incident marketing of an AR-15 rifle caused Adam Lanza to commit his crimes.

DEFENDANTS REMINGTON ARMS
COMPANY LLC AND REMINGTON
OUTDOOR COMPANY, INC.

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This is to certify that a copy of the foregoing has been emailed this day to all counsel of record as follows:

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EXHIBIT A

NO. UWY-CV15 6050025 S	:	SUPERIOR COURT
DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO, ET AL	:	COMPLEX LITIGATION DOCKET
VS.	:	AT WATERBURY
BUSHMASTER FIREARMS INTERNATIONAL, LLC, ET AL	:	APRIL 15, 2020

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE THAT, pursuant to Section 13-27(h) of the Connecticut Practice Book, Plaintiffs, by their undersigned counsel, will take the deposition upon oral examination of the person or persons designated by Remington Outdoor Company, Inc. (“Remington Outdoor Co.”) to testify on their behalf about each of the topics set forth below. Pursuant to Section 13-27(h), Remington Outdoor Co. shall designate one or more officers, directors, managing agents or other persons with knowledge of the topics set forth below. Please inform the undersigned of the person or persons so designated and the matters on which he, she, or they will be prepared to testify.

The deposition will take place on Wednesday, May 27, 2020, at 10:00 a.m., at the law firm Brooks Pierce, 230 North Elm Street, Greensboro, NC 27401, or at another mutually agreed upon time and location, and at any recessed or adjourned date. The deposition will be recorded by stenographic means and by videotape and taken before a notary public or other person authorized to administer oaths.

Definitions

1. “Remington” means Remington Outdoor Company, Inc., Remington Arms Company, LLC, and any and all subsidiaries, affiliated brands, and predecessor companies including but not limited to Freedom Group, Inc. and Bushmaster Firearms International, LLC and including their current and former employees, agents, officers, directors, and representatives.
2. “Action” refers to the lawsuit captioned *Soto v. Bushmaster Firearms Int’l, LLC*, NO. UWY-CV15 6050025 S, pending in the Judicial District of Waterbury.
3. “Including” means including without limitation.
4. “Person” means any natural person or any business, legal or governmental entity or association.
5. The terms “policies” and “practices” mean any processes, procedures, or directives, whether written or unwritten, formal or informal, that were recognized, adopted, issued or followed.
6. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
7. “Custodian” means any person or entity that, as of the date of this notice, maintained, possessed, or otherwise kept or controlled any documents.
8. “Document” is used herein in the broadest sense of the term and means all records, written proof, and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (“e-mail”), instant messages, text

messages, social media posts, social media messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, plans, manuals, policies, photographs, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a document constitutes a separate document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical documents. In the case of documents bearing any notation or other marking made by highlighting ink, the term document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof.

9. “Concerning” means relating to, referring to, describing, evidencing or constituting.
10. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.
11. The terms “all” and “each” shall both be construed as all and each.
12. The use of the singular form of any word includes the plural and vice versa.
13. The above definitions apply to any use of terms described above and their variants, whether capitalized or not, throughout the requests.

Matters Upon Which Examination Is Requested

Plaintiffs will take the recorded deposition of Remington Outdoor Co., by a person or persons designated pursuant to Section 13-27(h) of the Connecticut Practice Book, concerning the following matters, since January 1, 2006:

1. The organizational structure of Remington including: (a) the identity and function of any departments, divisions, or other organizational groups within Remington; and (b) the identities, titles, dates of employment, job descriptions, and reporting relationships of its employees.
2. Without limitation as to date, Remington's policies and practices concerning: (a) the retention, storage, destruction, or disposal of documents, including email and electronic documents; (b) any litigation holds or notices issued internally or to third-parties to ensure preservation and prevent the deletion, destruction, or disposal of electronic documents or electronic communications potentially relevant to this action; (c) the equipment used; and (d) the position and identity of all persons responsible for carrying out these policies and practices, their period of service in each position, their direct reports and supervisors, and their place within Remington's organizational structure.
3. Remington's collection and production of documents in this action, including the details of any inquiry or search for electronic communications, identities of custodian files that were searched, and the process for searching those files.
4. Remington's employment of vendors or third parties to assist Remington in the retention, storage, destruction, or disposal of documents referenced in Matter 2, above, or the collection and production of documents referenced in Matter 3, above; and the identities,

details of employment, dates of employment, reporting relationships, and costs of those parties.

5. The identity of all individuals (aside from counsel) consulted to prepare for this deposition.

Dated: April 15, 2020

THE PLAINTIFFS,

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REMINGTON OUTDOOR COMPANY, INC., A/K/A

Dated: April 15, 2020

/s/ Joshua D. Koskoff

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Jeffrey W. Wisner

EXHIBIT B

NO. X06 CV15 6050025 S	:	SUPERIOR COURT
	:	
DONNA L. SOTO, ADMINISTRATRIX	:	
OF THE ESTATE OF	:	COMPLEX LITIGATION
VICTORIA L. SOTO, ET AL	:	DOCKET
	:	
V.	:	AT WATERBURY
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL	:	JUNE 30, 2021

RE-NOTICE OF DEPOSITION

PLEASE TAKE NOTICE THAT, pursuant to Sections 13-27(h) and 13-30(g) of the Connecticut Practice Book, Plaintiffs, by their undersigned counsel, will take the videotaped deposition upon oral examination of the person or persons designated by Remington Outdoor Company, Inc. (“Remington”) to testify on its behalf about each of the topics set forth below:

1. The organizational structure of the Remington IT Department, its employees, job titles and reporting relationships, “including any organizational charts”;
2. Without limitation as to date, Remington’s policies and practices concerning: (a) the retention, storage, destruction, or disposal of documents, including email and electronic documents; (b) any litigation holds or notices issued internally or to third-parties to ensure preservation and prevent the deletion, destruction, or disposal of electronic documents or electronic communications potentially relevant to this action; (c) the equipment used; and (d) the position and identity of all persons responsible for carrying out these policies and practices, their period of service in each position, their direct reports and supervisors, and their place within Remington’s organizational structure;

3. Remington's collection and production of documents in this action, including the details of any inquiry or search for electronic communications, identities of custodian files that were searched, and the process for searching those files; and
4. Remington's employment of vendors or third parties to assist Remington in the retention, storage, destruction, or disposal of documents referenced in Matter 2, above, or the collection and production of documents referenced in Matter 3, above; and the identities, details of employment, dates of employment, reporting relationships, and costs of those parties.

The deposition will take place on August 4, 2021, at 10:00 a.m., at the offices of Legal Media Experts, 7B Corporate Center Court, Greensboro, NC 27408, or at another mutually agreed upon time and location, and at any recessed or adjourned date. The deposition will be recorded by stenographic means and by videotape and taken before a notary public or other person authorized to administer oaths.

Dated: Bridgeport, Connecticut
June 30, 2021

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H. Christopher Boehning (pro hac vice)
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1285 Avenue of the Americas
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cboehning@paulweiss.com
jschutte@paulweiss.com

Their Attorneys

CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing has been emailed this day to all counsel of record as follows:

COUNSEL FOR:

BUSHMASTER FIREARMS INTERNATIONAL LLC, A/K/A;
FREEDOM GROUP, INC., A/K/A;
BUSHMASTER FIREARMS, A/K/A;
BUSHMASTER FIREARMS, INC., A/K/A;
BUSHMASTER HOLDINGS, INC., A/K/A
REMINGTON ARMS COMPANY, LLC, A/K/A;
REMINGTON OUTDOOR COMPANY, INC., A/K/A

Paul D. Williams
James H. Rotondo
Jeffrey P. Mueller
DAY PITNEYLLP
242 Trumbull Street
Hartford, Connecticut 06103
pdwilliams@daypitney.com
jhrotondo@daypitney.com
jmueller@daypitney.com

James B. Vogts (*pro hac vice*)
Andrew A. Lothson (*pro hac vice*)
SWANSON MARTIN & BELL, LLP
330 North Wabash, #3300
Chicago, IL 60611
jvogts@smbtrials.com
alothson@smbtrials.com

U.S. Legal Support/Bishop Reporting, Inc.,
254 Commercial Street
Portland, ME 04101

/s/ Joshua D. Koskoff

Joshua D. Koskoff
Alinor C. Sterling
Jeffrey W. Wisner

EXHIBIT C

NO. X06 CV15 6050025 S	:	SUPERIOR COURT
	:	
DONNA L. SOTO, ADMINISTRATRIX	:	
OF THE ESTATE OF	:	COMPLEX LITIGATION
VICTORIA L. SOTO, ET AL	:	DOCKET
	:	
V.	:	AT WATERBURY
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL	:	JUNE 30, 2021

RE-NOTICE OF DEPOSITION

PLEASE TAKE NOTICE THAT, pursuant to Sections 13-27(h) and 13-30(g) of the Connecticut Practice Book, Plaintiffs, by their undersigned counsel, will take the videotaped deposition upon oral examination of the person or persons designated by Remington Outdoor Company, Inc. ("Remington") to testify on its behalf about each of the topics set forth below:

1. The organizational structure of Remington including: (a) the identity and function of any departments, divisions, or other organizational groups within Remington; (b) the identities, titles, dates of employment, job descriptions, and reporting relationships of its employees; and (c) any organizational charts. This does not include testimony regarding the IT Department and Bushmaster's operations in Maine.

The deposition will take place remotely beginning on August 5, 2021, at 10:00 a.m., at the offices of Legal Media Experts, 7B Corporate Center Court, Greensboro, NC 27408, or at another mutually agreed upon time and location, and at any recessed or adjourned date. The deposition will be recorded by stenographic means and by videotape and taken before a notary public or other person authorized to administer oaths.

Dated: Bridgeport, Connecticut
June 30, 2021

THE PLAINTIFFS,

By: /s/ Joshua D. Koskoff

Joshua D. Koskoff
Alinor C. Sterling
Jeffrey W. Wisner
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Their Attorneys

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alothson@smbtrials.com

U.S. Legal Support/Bishop Reporting, Inc.,
254 Commercial Street
Portland, ME 04101

/s/ Joshua D. Koskoff

Joshua D. Koskoff
Alinor C. Sterling
Jeffrey W. Wisner

EXHIBIT D

From: James Vogts <jvogts@smbtrials.com>
Sent: Tuesday, July 20, 2021 9:31 AM
To: Alinor C. Sterling; Lorena Gullotta; Boehning, Christopher
Cc: Rotondo, Jim; Williams, Paul D.; Mueller, Jeff; Andrew Lothson
Subject: Soto v. Bushmaster

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Alinor, I'm writing to clearly explain our proposal regarding the depositions plaintiffs have noticed for on August 4 and 5 in North Carolina. We had identified both John Trull and Melissa Anderson in 2020 as then-Remington employees with substantial personal knowledge on subject matters set forth your deposition notice, and we were prepared to produce them in 2020 as corporate designee witnesses, before the bankruptcy put a halt to further proceedings.

As I informed you on July 15, Melissa Anderson and John Trull are now unwilling to serve as corporate designee witnesses. And despite efforts to find replacements, who do not require complete education on the deposition notice topics, we have been unable to secure the agreement of others to replace Melissa and John. Both of them, however, understand they are likely to be deposed anyway in their individual capacities, and they have agreed to appear without the need of a subpoena on dates that work for both them and counsel.

As I explained on the call this afternoon with Judge Bellis, our proposal is that plaintiffs depose Melissa and John in their individual capacities and Remington will adopt testimony given by them as its own on topics set forth in your corporate designee deposition notice. This procedure has been used in other cases, and recognized by courts as appropriate. *See, e.g., Van Oyen v. MSH Chevrolet Cadillac*, No. 4:19-cv-2561, 2021 U.S. Dist. LEXIS 38149, at *4-*6 (E.D. Mo. Mar. 2, 2021); *Inline Packaging, LLC v. Graphic Packaging Int'l, Inc.*, No. 15-cv-3183, 2018 U.S. Dist. LEXIS 230597, at *34 n.8 (D. Minn. Jan. 23, 2018); *Hoops v. Medical Reimbursements of Am., Inc.*, No. 4:16-cv-01543, 2017 U.S. Dist. LEXIS 77977, at *4 (E.D. Mo. May 23, 2017); *Agence Fr. Presse v. Morel*, No. 10-Civ.-2730, 2011 U.S. Dist. LEXIS 126027, at *6-*8 (S.D.N.Y. Oct. 27, 2011).

We believe our proposal is reasonable and fair, and will provide plaintiffs with Remington's testimony on subjects set forth in your deposition notice. Please let us know as soon as possible whether you accept our proposal. If not, we will seek a protective order giving us additional time to find witnesses and prepare them to give deposition testimony.

Jim

James Vogts
Swanson, Martin & Bell LLP
330 N. Wabash Suite 3300
Chicago, IL 60611
(312) 222-8517

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EXHIBIT E

From: Alinor C. Sterling <ASterling@koskoff.com>
Sent: Wednesday, July 21, 2021 6:23 AM
To: James Vogts; Lorena Gullotta; Boehning, Christopher
Cc: Rotondo, Jim; Williams, Paul D.; Mueller, Jeff; Andrew Lothson; Schutte, Jacobus; Josh D. Koskoff
Subject: Re: Soto v. Bushmaster

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Jim,

That proposal is not a remotely reasonable substitute for corporate designee depositions that need to go forward August 4 and 5, and we do not accept it.

Alinor

Alinor Sterling | Attorney at Law
KOSKOFF KOSKOFF & BIEDER PC
350 Fairfield Ave., Bridgeport, CT 06604
203.336.4421 | 203.368.3244 (fax)
www.koskoff.com

Koskoff

From: James Vogts
Date: Tuesday, July 20, 2021 at 9:31 AM
To: Alinor C. Sterling , Lorena Gullotta , Boehning, Christopher
Cc: Rotondo, Jim , Williams, Paul D. , Mueller, Jeff , Andrew Lothson
Subject: Soto v. Bushmaster

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Jim

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